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Attorneys for Defendant SUNTRUST BANKS, INC.,
a Georgia banking corporation, incorrectly
sued as FSB SunTrust Banks, Inc.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

In re ATM FEE ANTITRUST LITIGATION

Master File No. C 04-2676 CRB

CLASS ACTION

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**DECLARATION OF KERRY
BRASHEARS IN SUPPORT OF
BANK DEFENDANTS' MOTION
FOR SUMMARY JUDGMENT**

I, Kerry Brashears, declare:

1. I am Group Vice President of Consumer Debit Card Products at SunTrust Banks, Inc. ("SunTrust"). I make this declaration from my own personal knowledge based on information known to me in the course of my responsibilities with SunTrust. If called as a witness, I could and would testify competently to the matters set forth below.

2. I began working at Crestar Financial Corp. in 1997. SunTrust acquired Crestar Financial Corp. on December 31, 1998. Since then, my responsibilities at SunTrust have included management of SunTrust's ATM and debit card products, as well as management of SunTrust's relationships with ATM and payment card networks. In that role, I have been involved in decisions regarding network participation. I also have

1 participated in decisions concerning SunTrust's pricing for use by SunTrust cardholders of
2 ATMs owned by other banks, as well as for use by other banks' cardholders of SunTrust's
3 ATMs. (Throughout this declaration, I refer to such transactions as "foreign ATM
4 transactions.")

5 3. Over more than two decades, SunTrust has been a member of a number ATM
6 networks in the United States, including, at various times, the Florida Interchange Group,
7 Honor, Cirrus, Plus, and Star. From approximately 1983 to 2001, SunTrust had an
8 ownership interest in Star predecessor entities and, later, Star itself. For roughly that same
9 time period, SunTrust appointed a representative to serve as a director on Star's (or its
10 predecessors') Board of Directors. In connection with Concord's 2001 acquisition of the
11 Star network, however, SunTrust sold its ownership interest in Star. Since that time,
12 SunTrust has not exercised any control over the operations of Star, including in connection
13 with the establishment of Star's interchange fees.

14 4. On or about December 23, 2003, SunTrust provided Star Systems with written
15 confirmation that SunTrust would not renew its STAR Member Institution Agreement,
16 which was to expire on December 31, 2004. In June 2004, SunTrust began issuing new and
17 replacement ATM cards with the Plus logo instead of the Star logo, and SunTrust's gradual
18 system conversion to Plus took place primarily during November 2004.

19 5. SunTrust deploys over 2500 ATMs. However, SunTrust's participation in
20 ATM networks like Star provides SunTrust's cardholders with a much more extensive base
21 of ATMs. For instance, I believe (based on industry publications) that Star presently
22 enables access to hundreds of thousands of ATMs deployed nationwide by the thousands of
23 banks participating in its network. It would be infeasible for SunTrust to offer such a
24 resource on its own. Thus, SunTrust has been and is motivated to participate in ATM
25 networks in order to increase the base of ATMs and network services available to its
26 customers. Access to a wide ATM base enhances SunTrust's ability to serve its cardholders
27 and to compete with other financial institutions for depositors.

28 6. SunTrust has multiple ATM network options available to it, and this has been

1 true for many years. Networks actively compete with each other for SunTrust's business.
2 In selecting the networks in which to participate, SunTrust considers a variety of factors.
3 These factors include the size and scope of each network, the footprints of other network
4 participants and the number and locations of their ATMs, the network's technology, its
5 customer service, and its rules governing network membership, transactions, and pricing.
6 Among the many critical network rules are those regarding payments and settlement
7 between network participants (including reimbursement of amounts disbursed, interchange,
8 etc.); financial terms between SunTrust and the network itself (including switch fees, etc.);
9 and risk management, systems for dispute resolution, and numerous other issues.

10 7. In my experience, a crucial factor in SunTrust's decision to participate in any
11 ATM network is the network's ability to guarantee "universal acceptance." In other words,
12 an ATM network must enable SunTrust to assure its depositors that their SunTrust ATM
13 cards can be used at any ATM participating in the network. I believe that, rather than
14 offering the enhanced level of customer service that SunTrust seeks to provide through
15 ATM network participation, an ATM network that could not guarantee "universal
16 acceptance" would be frustrating and confusing for cardholders. It would result in
17 inefficiency and increased costs. SunTrust therefore would — to say the least — be
18 extremely reluctant to continue its membership in such an ATM network. It is my
19 understanding that all ATM networks adhere to a similar policy requiring universal
20 acceptance for the same reasons that I have just stated.

21 8. I also do not believe that SunTrust would (or should) participate in an ATM
22 network that lacked a comprehensive and binding set of default rules establishing all
23 material terms governing transactions conducted over the network. Among such material
24 terms are the amount, timing, and other provisions by which an ATM deployer will receive
25 payment from the card issuer for providing cash to the issuer's cardholder. As an ATM
26 deployer, SunTrust naturally would be unwilling to dispense cash to another bank's
27 cardholder absent some agreement establishing these essential terms.

28 9. During the time I have managed ATM and debit products at SunTrust,

1 SunTrust has never been presented with a situation in which a network has proposed that
2 any material term for foreign ATM transactions (including the level of interchange fees)
3 would be determined solely through bilateral negotiations between participants in the
4 network, instead of being established centrally by the network. Had such a situation been
5 presented, SunTrust would have been unwilling to join (or to continue its participation in)
6 that network. The negotiation and administration of the vast number of bilateral agreements
7 necessary under such a circumstance would be unjustifiably costly and difficult. If a regime
8 of strictly bilateral negotiations on interchange had been in place when SunTrust joined Star
9 (or if such a regime had been put in place during SunTrust's membership in Star), SunTrust
10 would have explored alternatives to participation in the network. Such alternatives might
11 include moving to a different network that did not impose that onerous requirement or, if
12 this option were unavailable, eschewing network participation in favor of seeking to
13 supplement SunTrust's ATM base through increased deployment and/or by negotiating a
14 limited number of bilateral contracts with large ATM deployers that provided coverage in
15 areas not adequately served by SunTrust's own ATMs.

16 10. SunTrust charges some of its customers a "foreign ATM fee" for transactions
17 they conduct at ATMs not belonging to SunTrust. Other customers are not charged such
18 foreign ATM fees, however, or only are charged such fees for foreign ATM transactions
19 exceeding a certain number per month. The decision as to which customers will be charged
20 a foreign ATM fee, and under what conditions, forms part of the SunTrust's overall strategy
21 in packaging the services offered to various groups of its depository customers.

22
23 I declare under penalty of perjury that the foregoing is true and correct. Executed on
24 this 1st day of August, 2007 at Atlanta, Georgia.

25
26 
27 Kerry Brashears
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